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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,101

09/10/2003

John Geoffrey Chan

99047

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45980

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10/25/2006

CHURCH & DWIGHT CO., INC.
LAW DEPT. - PATENTS
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EXAMINER

CHIN, RANDALL E

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 10/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,101

Applicant(s)

CHAN ET AL.

Examiner

Randall Chin

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 9 is/are allowed.
- 6) ☒ Claim(s) 1-6, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stvartak 6,601,272 (hereinafter Stvartak).

Stvartak discloses a toothbrush comprising a housing formed from a first material and including a handle, a brush head, and a neck extending between said handle and said brush head, characterized in that said housing further includes a first gripping member disposed along an exterior region of said housing (Figs. 1-3), said first gripping member formed from a second material softer than said first material, said first gripping member having a “**generally** convex shape” (a broad recitation) contoured to match said housing and a first “substantially” concave recessed region 62 (Fig. 3) on an exposed exterior surface thereof, and a second gripping member having a “**generally** convex shape” (a broad recitation) contoured to match said housing and formed from said second material (Figs. 1-3), said second gripping member defining a second “substantially” concave recessed region 64 (Fig. 3) on an exposed exterior surface thereof, said first gripping member and said second gripping member formed from a second material softer than said first material (col. 5, lines 16-36), whereby said first and

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second recessed regions are useful in assisting a user to grasp the handle during use of the device, said first and second gripping members and said first and second substantially concave recessed regions thereof having “**generally** oval shapes” (also, a broad recitation) when viewed in a plan view (Fig. 4), said first and second substantially concave, generally oval recessed regions are concavely shaped along both their major and minor axes. As for the “first gripping member” and the “second gripping member”, viewing the lower half of Stvartak’s Fig. 2, one can see the outline as a “generally convex shape.” Note, each side of the toothbrush is symmetrical along its centerline.

As for claim 1 reciting that the device is “electric” (line 1) as well as includes a “positionable actuator” (line 3), it is the Examiner’s position that it would have been obvious to one skilled in the art to have utilized or substituted Stvartak’s handle on any **electric** toothbrush design for simply improving one’s grip thereon.

As for claim 2, said housing of the device defines a longitudinal axis, and said first and said second gripping members symmetrically disposed on said housing with respect to said longitudinal axis (Figs. 1-3 and 5).

As for claims 3 and 4 reciting specific dimensions for the first gripping member and for the first recessed region, respectively, such claimed values are well within the level of ordinary skill to provide for (if not already, as such claimed values appear typical) through routine optimization. One skilled in the art would expect sizes or dimensions particularly and satisfactorily suited to the intended user(s). Further, any changes in size involving dimensions suitable for a human hand and/or fingers are deemed within the level of ordinary skill.

As for claim 5, as similarly stated above, it would have been obvious to one of ordinary skill in the art to have provided for the second material having a Shore A hardness between about 30 and about 99, a rather broad range, to satisfactorily suit the intended user(s) gripping comfort level.

As for claim 6, the first and second gripping members are formed from the group consisting of elastomers and rubber-based materials (col. 5, lines 16-36).

As for claim 13, said first and second gripping members 16, 17 are deemed separate and distinct from each other (i.e., on each side of the centerline).

As for claim 14, said first and second gripping members are symmetrically disposed on a rearward side (Fig. 3) of said housing so that said device may be used by both left-handed and right-handed individuals.

Allowable Subject Matter

3. Claims 7 and 9 are allowed.

Conclusion

4. Applicant's arguments with respect to claims 1-7, 9, 13 and 14 have been considered but are moot in view of the new ground(s) of rejection.

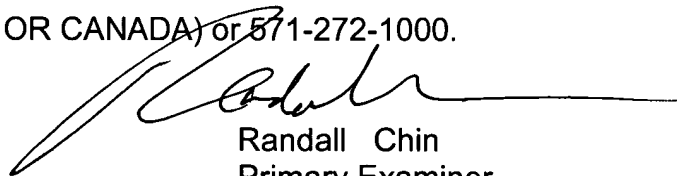
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-

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1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Randall Chin
Primary Examiner
Art Unit 1744